

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to minors' school licenses and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 602, "Classes of Driver's Licenses," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.194.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.194 as amended by 2018 Iowa Acts, House File 2494, sections 5 to 7.

Purpose and Summary

This rule making updates Chapter 602 to incorporate amendments that align with existing legal authority and Department practice. The proposed amendments conform the rules with 2018 Iowa Acts, House File 2494, sections 5 to 7, which amend Iowa Code section 321.194 and concern the requirements for obtaining a minor's school license, most notably for students who attend an accredited nonpublic school (i.e., private school).

Prior to July 1, 2018, Iowa Code section 321.194, which governs minors' school licenses, was directed toward students attending public schools and did not address minors' school license issuance for students attending private schools. Specifically, the language that previously existed in Iowa Code section 321.194 tied the distance a student using a minor's school license could drive to school district boundaries and required approval for the license by certain public school officials. Because private schools do not have a traditional school district like public schools and do not necessarily have the same types of school officials as public schools (for example, a private school may employ a school president rather than a principal), the 2018 legislative changes were made to address these disparities by establishing a geographic boundary that applies to private school students and accounting for private school officials that differ from public school officials. The legislative changes provide that a student attending a private school is limited to driving no more than a 25-mile driving distance between the student's residence and school and that the appropriate private school official has the responsibility to sign the certificate of necessity for the minor's school license, and the proposed amendments reflect the statutory requirements.

Iowa Code section 321.194 provides that a student must take and complete an approved driver's education course before obtaining a minor's school license, unless the student qualifies for a hardship exemption, and authorizes the Department to establish rules specifically defining hardship and establishing procedures for demonstrating hardship. The hardship exemption is found in subrule 602.26(3), and the proposed amendment allows the exemption to be signed by an appropriate school official of the school district of residence or of the applicant's school, depending on whether the applicant attends a public school or an accredited nonpublic school. Subrule 602.26(3) has always applied to both public and private school students; however, prior to this proposed amendment, only a public school official could sign the hardship exemption. This process created an extra step for private school students by causing the student to have to request assistance from a school which was not necessarily familiar with the student.

The proposed amendments also incorporate the 25-mile driving distance restriction for a private school student who drives from multiple residences if the student's parents are divorced or separated.

Public school students may drive from multiple residences only if the primary and secondary residences are located within the public school district of enrollment or a contiguous public school district. The proposed amendments similarly allow a private school student to drive from multiple residences provided the student's primary and secondary residences are no more than a 25-mile driving distance from the school of enrollment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

December 28, 2018
10 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—602.2(321) as follows:

761—602.2(321) Information and forms. Applications, forms and information about driver's licensing are available at any driver's license examination station or on the department's Web site at www.iowadot.gov service center. Assistance is also available at the address in rule 761—600.2(17A) by mail from Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at www.iowadot.gov.

602.2(1) Certificate of completion. Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools.

a. If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form or online completion, if applicable, for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

b. If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form or online completion, if applicable, after the student completes the missing components.

602.2(2) No change.

602.2(3) Waiver of accompanying driver for intermediate licensee. Form 431170 is the waiver described in Iowa Code subsection 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

a. No change.

b. If the licensee attends a public school and the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. If the licensee attends an accredited nonpublic school and the waiver is for school-related extracurricular activities, the form must be signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority.

c. No change.

602.2(4) No change.

This rule is intended to implement Iowa Code sections 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

ITEM 2. Amend rule **761—602.14(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 321.196 ~~and 2013 Iowa Acts, chapter 104, section 2.~~

ITEM 3. Amend rule 761—602.26(321) as follows:

761—602.26(321) Minor's school license.

602.26(1) Validity and issuance.

a. No change.

b. The license is valid during the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 and at any time when the licensee is accompanied in accordance with Iowa Code subsection~~ section 321.180B(1).

c. and d. No change.

602.26(2) Requirements.

a. No change.

b. An applicant who attends a public school shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. An applicant who attends an accredited nonpublic school shall submit a statement of necessity signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority. The statement shall be on Form 430021.

c. and d. No change.

602.26(3) Exemption.

a. An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a school license. "Hardship" means:

(1) to (3) No change.

(4) That the applicant is ~~permanently handicapped~~ a person with a disability. In this rule, ~~"handicapped"~~ "person with a disability" means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant's health.

b. "Demonstrates to the satisfaction of the department" means that the department has received written proof that a hardship exists. An applicant who attends a public school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by the superintendent of the applicant's school, the chairperson of the school board, or the principal, of the applicant's school if authorized by the superintendent, of the applicant's school or school district of residence. An applicant who attends an accredited nonpublic school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by either an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority, or by the superintendent, the chairperson of the school board, or the principal, if authorized by the superintendent, of the applicant's school district of residence.

602.26(4) Multiple residences.

a. An applicant whose parents are divorced or separated and who as a result of shared custody maintains more than one residence may be authorized to operate a motor vehicle from either residence during the times and for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, provided that section 321.194 if one of the following applies:

(1) If the applicant attends a public school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending a public school set forth in Iowa Code subsection 321.194(3) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is either within the school district that includes the applicant's school of enrollment or is within an Iowa school district contiguous to the applicant's school of enrollment.

(2) If the applicant attends an accredited nonpublic school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending an accredited nonpublic school set forth in Iowa Code section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is no more than 25 miles driving distance from the school of enrollment.

b. The fact that either residence is less than one mile from the applicant's school of enrollment shall not preclude travel to and from each residence at the times and for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 provided that need is otherwise demonstrated.

~~b. c.~~ A minor's school license approved for travel to and from two residences for the purposes set forth in Iowa Code subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section

~~33,~~ section 321.194 shall not be valid for travel directly between each residence unless the licensee is accompanied in accordance with Iowa Code ~~subsection~~ section 321.180B(1).

~~e.~~ d. The primary residential address listed in the statement of necessity shall appear on the face of the license. A minor's school license approved for travel to and from two residences shall include a "J" restriction on the face of the license, and the secondary address listed in the statement of necessity shall be listed on the reverse side of the license as part of the "J" restriction, with the following notation: "Also valid to drive to and from [secondary residential address] in compliance with 321.194."

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.